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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,408	11/30/2006	Leander Grode	2923-737	4545
6449 7590 03/26/2010 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005				
EXAMINER SWARTZ, RODNEY P				
ART UNIT 1645		PAPER NUMBER		
NOTIFICATION DATE 03/26/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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PTO-PAT-Email@rfem.com

### **DETAILED ACTION**

1. Applicants' Response to Office Action, received 16 February 2010, is acknowledged. Claims 39, 40, 42, 43, 44 and 47 have been amended.
2. Claims 1-32 and 39-47 are pending and under consideration.

### **Rejections Maintained**

3. The rejection of claims 39-47 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, is maintained.

Applicants argue that the amendment of the claims obviates the rejection.

The examiner has considered applicants' argument, in light of the amendments to the claims, but does not find it persuasive.

As newly amended, the claims recite that any polypeptide which elicits an immune response to said disease state results in treating said disease state. The art teaches that not all immune responses are effective in treating disease states, e.g., tuberculosis, parasites, HIV, tumors, mycobacterial infection, as evidenced by Kremer et al (*Infection and Immunity*, 68(7):4264-4273, July 2000), Guenounou (*Immuno-analyse et Biologie Specialisee*, 12(2):65-69, May 1997), Eun-Kyeong Jo et al (*Current Opinion in Infectious Diseases*, 16(3):205-210, 2003), Fujiwara et al (*PLoS Neglected Tropical Diseases*, 3(3):article 399, March 2009) and Zhong et al (*European Journal of Immunology*, 38(1):73081, January 2008). However, the specification does not provide sufficient support that all polypeptides which may elicit an immune response to a disease state will, as a consequence of such elicitation, result in treatment of said disease state.

### **Conclusion**

4. Claims 39-47 remain rejected.

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Wednesday from 9:00 AM to 7:30 PM EST. Thursday is the examiner's work at home day.

If attempts to reach the Examiner by telephone are unsuccessful, please contact the Examiner's Supervisor, Robert B. Mondesi (571)272-0956.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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/Rodney P. Swartz, Ph.D./

Primary Examiner, Art Unit 1645

March 25, 2010